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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,526	02/10/2005	Gunter Gerhart	21812.002US	1132

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

MAIL DATE	DELIVERY MODE
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11/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,526

Applicant(s)

GERHART, GUNTER

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2007 and 20 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/19/07 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Drawings

The drawing correction filed June 19, 2007 has been approved.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested the applicant amend the title to the following --WALL OR DOOR ELEMENT PROVIDED WITH SECURING MEMBERS FOR PREVENTING CASTORS FROM LIFTING OFF FROM A RUNNER--.

Claim Objections

Claim 1 is objected to because it is not completely clear what element of the invention "comprising" on line 7 of claim 1 is referring to. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1 and 4-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "respective floor runners" on line 2 of claim 1 render the claims indefinite because it is unclear how the castors of one door element can run in more than one floor runner. Note that the castors 12 of the door

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element 11 run in the same floor runner 13. Recitations such as "lowerably lowerable" on line 6 of claim 1 are grammatically awkward and confusing.

Recitations such as "near" on line 8 of claim 1 render the claims indefinite because they are relative terms whose meaning cannot be readily ascertained by one with ordinary skill in the art and are not defined by the specification.

Recitations such as "mounted rotatably on central, fixed hub" on lines 14-15 of claim 1 render the claims indefinite because they are grammatically awkward and confusing. Recitations such as "the castor carrier" on line 16 of claim 1 render the claims indefinite because it is unclear how both castors can be mounted on the same castor carrier. Recitations such as "means of ball bearings" on line 16 of claim 1 render the claims indefinite because the applicant has attempted to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding or following "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Recitations such as "the castor" on line 19 of claim 1 render the claims indefinite because it is unclear which one of the plurality of castors set forth above the applicant is referring to. Recitations such as "the runner" on line 6 of claim 4, "the guide slot" on line 6 of claim 4, "the guide slot" on line 14 of claim 4, and "the runner" on line 14 of claim 4 render the claims indefinite because it is unclear to which one of the plurality of runners and guide slots set forth above the applicant is referring to. Recitations such as "design" on line 2 of claim 5 render

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the claims indefinite because it is unclear if the securing member is actually triangular or merely has the appearance of being triangular. Recitations such as "each of the castors is mounted on the castor carrier" on line 3 of claim 6 render the claims indefinite because it is unclear how more than one castor can be mounted to the same castor carrier. Recitations such as "the castor" on line 7 of claim 18 render the claims indefinite because they lack antecedent basis. Recitations such as "a)" on line 9 of claim 18 are confusing since the applicant has already set forth "a)" on line 4 of claim 18.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, 9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ezman (US 5671502). Ezman discloses a sliding element 2 which can be moved by lower castors 11 on respective floor runners 21, the floor runners 21 being hollow bodies with a longitudinal guide slot 23, the castors being mounted on a respective castor carrier 7, and the sliding element 2 being at least partially liftable and lowerable relative to the castors, comprising a securing member 10, wherein:

a) the securing member 10 is located near at least one of the castors 11;

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b) the securing member 10 comprises anchoring members 28, 32 entering into the respective runner and securing the respective castor against lifting off from the respective runner;

c) the castors 11 are mounted rotatably on a central, fixed hub 16 of the castor carrier 7 by means of ball bearings (not shown, but see column 3, lines 59-61); and

d) the securing member 10 further comprises two supporting walls (not numbered, but shown in figures 1 and 3), the two supporting walls being located at a distance from each other and are mounted on both sides of the castor on the fixed hub;

the anchoring members 28, 32 are securing hooks that enter the runner 21 at both sides of the castor 11 via the guide slot 23 such that laterally directed projections 30 of the securing hooks are located near runner limbs 22 that are located on both sides of and form the guide slot, each of the castors comprises supporting surfaces 25 that rest on the runner limbs 22, and each of the castors further comprises a central guide rim 24 running all the way around the circumference of each of the castors and the guide rim entering into the guide slot of the runner; the securing member 10 has a triangular design with an upper, central corner region being mounted on the hub (not numbered, but defined by the two sets of anchoring members 27, 31 and 28, 32 and the apex of the arch above the hub 16).

Claims 13, 14 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Ezman. Ezman discloses a sliding element 2 for use on a floor runner 21, the floor runner 21 being a hollow body with a longitudinal guide slot 23, the sliding element comprising:

- a) a castor 11 having a circumference and rotatably mounted on a castor carrier 7;

- b) a securing member 28, 32 located near the castor, the securing member 28, 32 comprising anchoring members entering into the floor runner and securing the castor against lifting off from the floor runner and two supporting walls (not numbered, but shown in figures 1 and 3) located at a distance from each other and mounted on two sides of the castor,

wherein the sliding element is at least partially liftable and lowerable relative to the castor;

the anchoring members 28, 32 are securing hooks that enter the runner 21 at the sides of the castor 11 via the guide slot 23 such that laterally directed projections 30 of the securing hooks are located near runner limbs 22 that are located on two sides of and form the guide slot 23, the castor 11 comprises supporting surfaces 25 that rest on the runner limbs 22, and the castor 11 further comprises a central guide rim 24 running all the way around the circumference of the castor 11 and the guide rim 24 enters into the guide slot 23 of the runner 21.

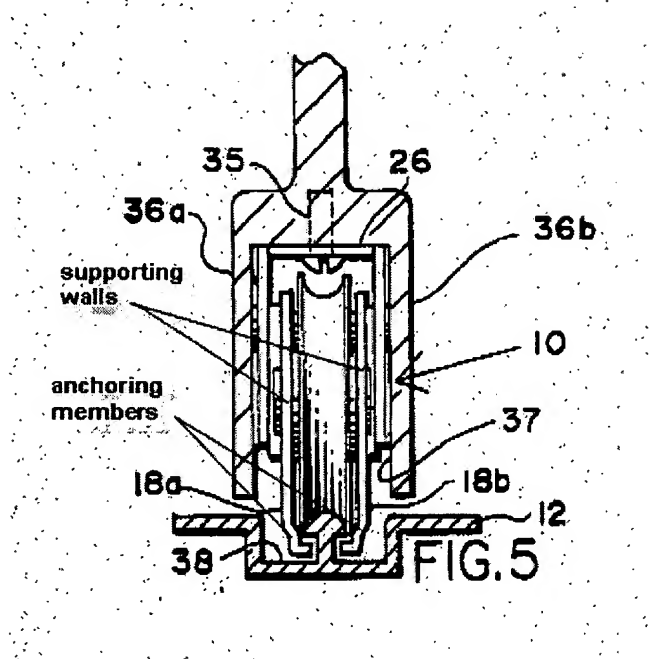
Claims 13, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Moose. Moose discloses a sliding element 11 for use on a floor runner 12, the floor runner 12 being a hollow body with a longitudinal guide slot 38, the sliding element comprising:

- a) a castor 14b having a circumference and rotatably mounted on a castor carrier 20;

- b) a securing member 18a, 18b located near the castor, the securing member comprising anchoring members (labeled below) entering into the floor runner and securing the castor against lifting off from the floor runner and two supporting walls (labeled below) located at a distance from each other and mounted on two sides of the castor 14b,

wherein the sliding element 11 is at least partially liftable and lowerable relative to the castor;

the castor carrier 20 is connected pivotably to a frame 24, the castor carrier 20 comprises two supporting limbs (not numbered, but shown in figure 4) located at a distance from each other; and the castor carrier 20 further comprises a castor axle 28 extending between the supporting limbs such that the respective castor 14b is mounted between the supporting limbs; the castor 14b is mounted rotatably on a central, fixed hub 17b.



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, 7, 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moose (US 4633615) in view of Jacobs et al. (US 5927017). Moose discloses a sliding element 11 which can be moved by lower castors 14b on respective floor runners 12, the floor runners 12 being hollow bodies with a longitudinal guide slot 38, the castors 14b being mounted on a respective castor

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carrier 20, and the sliding element 11 being at least partially liftable and lowerable relative to the castors 14b, comprising a securing member 18a, 18b, wherein:

a) the securing member 18a, 18b is located near at least one of the castors 14b;

b) the securing member 18a, 18b comprises anchoring members (labeled below) entering into the respective runner 12 and securing the respective castor 14b against lifting off from the respective runner 12;

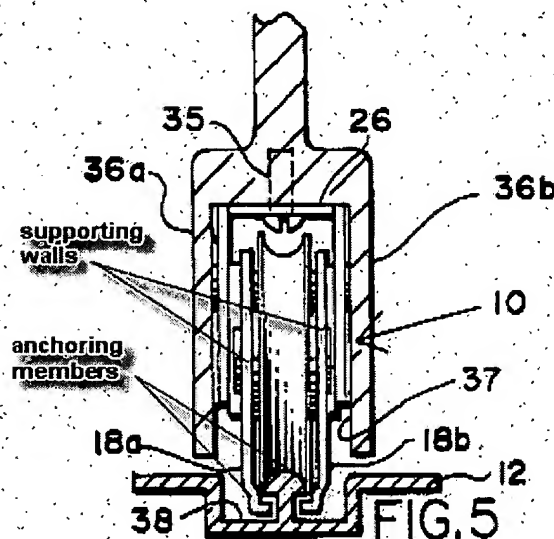
c) the castors 14b are mounted rotatably on a central, fixed hub 17b of the castor carrier 20; and

d) the securing member 18a, 18b further comprises two supporting walls (labeled below), the two supporting walls being located at a distance from each other and are mounted on both sides of the castor on the fixed hub;

each of the castors 14b is mounted on the castor carrier 20 and the castor carrier 20 is connected pivotably to a frame 24, the castor carrier comprises two supporting limbs (not numbered, but shown in figure 4) located at a distance from each other, and the castor carrier 20 further comprises a castor axle 28 extending between the supporting limbs such that the respective castor 14b is mounted between the supporting limbs; the securing member 18a, 18b is mounted between the supporting limbs of the castor carrier 20, the castor carrier 20 is connected pivotally to the frame 24, the securing member comprises two webs 18a and 18b arranged at a distance from one another; the anchoring members are securing hooks. Moose is silent concerning balls bearings.

However, Jacobs et al., in figure 14, discloses a castor 114 mounted on a central, fixed hub 112 by means of ball bearings 110.

It would have been obvious to one of ordinary skill in the art to provide Moose with ball bearings, as taught by Jacobs et al., to reduce friction as the castor rotates relative to the hub.



Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ezman as applied to claims 1, 4, 5, 9 and 12 above. Ezman, as set forth above, is silent concerning a sloping inclination of the supporting surfaces of approximately 5 degrees.

However, one of ordinary skill in the art is expected to routinely experiment with parameters so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been no more than an obvious matter of

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engineering design choice, as determined through routine experimentation and optimization, for one of ordinary skill to provide the supporting surfaces having an outwardly directed, sloping inclination of approximately 5° to better center the castor 11 on the runner 21.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moose as applied to claims 13, 15 and 17 above, and further in view of Jacobs et al. Moose is silent concerning balls bearings.

However, Jacobs et al., in figure 14, discloses a castor 114 mounted on a central, fixed hub 112 by means of ball bearings 110.

It would have been obvious to one of ordinary skill in the art to provide Moose with ball bearings, as taught by Jacobs et al., to reduce friction as the castor rotates relative to the hub.

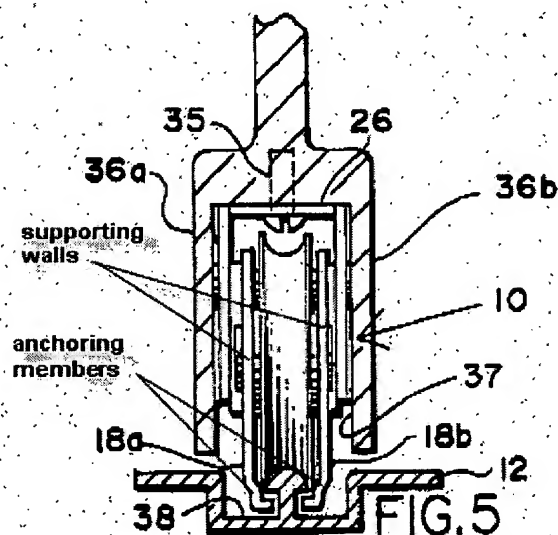
Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moose in view of Ezman. Moose discloses a sliding element 11 for use on a floor runner 12, the floor runner being a hollow body with a longitudinal guide slot 38, the sliding element comprising:

a) a castor carrier 20 connected pivotably to a frame 24, the castor carrier 20 comprising two supporting limbs (not numbered, but shown in figure 4) located at a distance from each other and a castor axle 28 extending between the

supporting limbs such that the castor 14b is mounted between the supporting limbs;

b) a castor 14b rotatably mounted on the castor carrier 20, the castor 14b having a circumference; and

c) a securing member 18a, 18b located near the castor 14b, the securing member comprising securing hooks (labeled below) that enter into the floor runner 12 at the sides of the castor 14b via the guide slot 38 such that laterally directed projections (labeled below) of the securing hooks secure the castor 14b against lifting off from the floor runner 21 and two supporting walls (labeled below) located at a distance from each other and mounted on two sides of the castor 14b, wherein the sliding element is at least partially liftable and lowerable relative to the castor. Moose is silent concerning a central guide rim of the castor and runner limbs of the guide slot.



However, Ezman discloses a sliding element 2 for use on a floor runner 21, the floor runner 21 being a hollow body with a longitudinal guide slot 23 formed by runner limbs 22 that are located on two sides of the guide slot, the sliding element comprising:

a) a castor carrier 7, the castor carrier comprising two supporting limbs (not numbered, but shown in figures 1 and 3) located at a distance from each other and a castor axle 16 extending between the supporting limbs such that the castor 11 is mounted between the supporting limbs;

b) a castor 11 rotatably mounted on the castor carrier 7, the castor 11 having a circumference and comprising supporting surfaces 25 that rest on the runner limbs 22 and a central guide rim 24 running all the way around the circumference of the castor and the guide rim 24 enters into the guide slot 23 of the runner 21; and

c) a securing member 28, 32 located near the castor 11, the securing member comprising securing hooks that enter into the floor runner at the sides of the castor via the guide slot such that laterally directed projections 30 of the securing hooks are located near runner limbs and secure the castor against lifting off from the floor runner, wherein the sliding element is at least partially liftable and lowerable relative to the castor, the castor is mounted rotatably on a central, fixed hub of the castor carrier by means of ball bearings (see column 3, lines 59-61).

It would have been obvious to one of ordinary skill in the art to provide Moose with a castor, floor runner system, and securing members, as taught by

Ezman, to enable the sliding element to be more easily retrofitted to an existing structure.

Response to Arguments

Applicant's arguments filed June 19, 2007 have been fully considered but they are not persuasive.

The applicant's comments concerning Ezman are not persuasive. The applicant's comments concerning Ezman failing to disclose anchoring members comprising separate elements are not persuasive because they are not supported by the claim language. Note that no language in claim 1 requires the securing element to be separate from other elements of the invention.

The applicant's comments concerning Moose are not persuasive since Moose discloses each and every element of claim 1. The mere fact that Moose discloses more elements than the elements disclosed by the applicant's invention does not *per se* prevent Moose from anticipating the applicant's claimed invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal flourish extending to the right.

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
November 27, 2007